

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

HORACE COOK,

Petitioner,

v.

CASE NO. 20-3115-JWL

CLAUDE MAYE,

Respondent.

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus filed under 28 U.S.C. § 2241. The Court summarily dismissed this matter on April 30, 2020, and petitioner is pursuing an appeal. He has filed two motions seeking the appointment of counsel.

Analysis

There is no constitutional right to counsel beyond direct appeal in a criminal case. *Coronado v. Ward*, 517 F.3d 1212, 1218 (10th Cir. 2018). Instead, unless an evidentiary hearing is necessary, “[t]he decision to appoint counsel is left to the discretion of the district court.” *Engberg v. Wyoming*, 265 F.3d 1109, 1122 (10th Cir. 2001). The Court should consider “the merits of the litigant’s claims, the nature of the factual issues raised in the claims, the litigant’s ability to present his claims, and the complexity of the legal issues raised by the claims.” *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991). The petitioner has the burden “to convince the court that there is sufficient merit to his claim to warrant the appointment of counsel.” *Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir. 2004) (citations omitted).

Because this matter was summarily dismissed for lack of statutory

jurisdiction, the Court finds the appointment of counsel is not warranted. The Court therefore will deny the motions, but this ruling will not bar petitioner from filing a motion to appoint counsel in the Tenth Circuit Court of Appeals.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motions to appoint counsel (Docs. 14 and 15) are denied.

IT IS SO ORDERED.

DATED: This 23rd day of June, 2020, at Kansas City, Kansas.

S/ John W. Lungstrum

JOHN W. LUNGSTRUM
U.S. District Judge